HTSUS 9802.00.80 – U.S. Articles Assembled Abroad Pre-Assessment Survey

Internal Control Technical Guide

Objective

Provide guidance in performing a Pre-Assessment Survey (PAS) of the company's internal controls for merchandise entered under HTSUS 9802.00.80 and evaluating the results.

Background

Generally Accepted Government Auditing Standards require the PAS team to obtain a sufficient understanding of internal controls to plan the audit and determine the nature, timing, and extent of tests to be performed.

The guidelines and terms in this technical guide are based on *Assessing Internal Controls in Performance Audits,* GAO/OP-4.1.4, published by the United States General Accounting Office, Office of Policy, September 1990, and the American Institute of Certified Public Accountants *Statement on Auditing Standards No. 78*.

Subheading 9802.00.80 provides a duty allowance for assembly abroad in whole or in part of fabricated components that are the product of the United States and that (a) were exported in condition ready for assembly without further fabrication; (b) have not lost their physical identity in such articles by change in form, shape, or otherwise; and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process, such as cleaning, lubricating and painting. The returned articles are dutiable on the full value of the imported article less the cost or, if no charge is made, the value of such products of the United States, provided the documentary requirements of 19 CFR 10.24 are met.

19 CFR 10.24 states, "The following documents shall be filed in connection with the entry of assembled articles claimed to be subject to the exemption under subheading 9802.00.80, Harmonized Tariff Schedule of the United States (HTSUS)…. (1) A declaration by the person who performed the assembly operations abroad …; and (2) an endorsement by the importer…."

The fabricated components must be in condition ready for assembly without further fabrication at the time of their exportation from the United States to qualify for the exemption. Components will not lose their entitlement to the exemption by being subjected to operations incidental to the assembly (e.g., cleaning, trimming, or filing, but not chemical treatment of components or polishing) either before, during, or after their assembly with other components. Materials undefined in final dimensions and shapes, which are cut into specific shapes or patterns abroad, are not considered fabricated components.

Some assembly operations (e.g., mixing or combining of liquids or chemicals) are not significant enough to qualify.

Examples of Red Flags

The following examples are conditions that may indicate a potential problem in 9802.00.80 are broken down into four categories: (1) General, (2) Origin, (3) Usage, and (4) Value.

1. General Red Flags

- The company has insufficiently documented, poorly defined, or no internal controls for accurately declaring 9802.00.80 for Customs purposes.
  - ✓ The company does not monitor or interact with the broker on 9802.00.80 issues.
  - ✓ The company relies on one employee to handle 9802.00.80 issues, and there are poor or no management checks or balances over this employee.
- Company Customs staff lack knowledge of 9802.00.80 eligibility requirements.
- The company offers unreasonable explanations to Customs inquiries.
- The company fails to cooperate with or respond to Customs.
- The company has a high turnover of people in key Customs positions.
- Significant variance exists between the importer's data and Customs data.
- Customs (e.g., import specialist, account manager, compliance measurement, prior audit, other profile information) shows a history of problems with 9802.00.80.
- U.S. and foreign components are commingled.
- The description of the assembly process for the imported article includes descriptions involving fabrication, completion, or improvement.
- The company has no export documents to show components were shipped to the manufacturer.
- The company has many drawback claims.

2. Red Flags for Origin

- The company has no manufacturers' affidavits, or certificates or affidavits on file are incomplete.
- Certificates of Origin are from a known distributor/wholesaler.
- There is dual sourcing of fungible or commercially interchangeable components.

3. Red Flags for Usage

- The importer cannot provide records to prove the U.S. components were used in production.
- Inventory and accounting records indicate that the quantities of components purchased and shipped are less than the quantities claimed as 9802.00.80.
- The components are not shown on the bill of materials for the imported article.

4. Red Flags for Value

- The import specialist/account manager has had previous experience with the company failing to file cost submissions or preparing inaccurate cost submissions.
- Costs of components deducted from the foreign invoice value were not included in the foreign invoice value.
- Foreign transportation, freight, and insurance costs are inappropriately omitted from the dutiable value.

Examples of Best Practices

- Internal controls over 9802.00.80:
  - ✓ Are in writing;
  - ✓ Include procedures for monitoring and feedback; and
  - ✓ Are approved by management.

- One manager is ultimately responsible for control of the Import Department, including ensuring eligibility of merchandise entered under 9802.00.80. That manager has knowledge of Customs matters and the power to ensure that internal control procedures for imports are established and followed by all company departments.
- Written internal control procedures assign duties and tasks to a position rather than a person.
- The company has good interdepartmental communication about Customs matters.
- The company conducts and documents periodic reviews of 9802.00.80 merchandise and uses the results to make corrections to entries and changes to its import operations as appropriate.
- The importer obtains manufacturers' affidavits and other documentation supporting U.S. origin prior to claiming 9802.00.80.
- The importer obtains documentation to support the FOB U.S. port of export value of components prior to claiming 9802.00.80.

Examples of Documents and Information to Review

- Written internal control policies and procedures for ensuring proper 9802.00.80 eligibility
- The company's responses to the questionnaire
- Interviews with company staff concerning actual procedures and controls specific to 9802.00.80
- Company documentation that supports monitoring and verification of established and/or written internal controls over 9802.00.80, such as:
  - ✓ Entry Summary and invoice
  - ✓ Manufacturer's affidavits
  - ✓ Certificates of origin
  - ✓ Cost submission
  - ✓ Production records
  - ✓ Inventory records
  - ✓ Export documents (e.g., Mexican Pedimento, invoice, bill of lading)
  - ✓ Foreign Assembler's Declaration
  - ✓ Endorsement by the importer
  - ✓ Cost sheets
  - ✓ Accounting records
  - ✓ Bills of materials
  - ✓ Specification sheets
- Internal and external audit reports

Suggested Testing

PAS team judgement should be used to determine the type and amount of testing needed to evaluate the effectiveness of internal controls and to determine whether there is a sufficient risk to warrant proceeding to the Assessment Compliance Testing (ACT) phase.

Using the chart and guidelines below, determine through limited judgmental testing whether the company's internal controls are effective.

To determine the extensiveness of internal control testing, it is necessary to evaluate:

1. The **risk exposure**; and

2. The **internal controls** system, by determining whether the controls are in operation, how the controls were applied, how consistently they were applied, and who applies hem.

Risk Exposure

Risk exposure is the probability of significant Customs noncompliance. In each step of determining risk exposure, consideration should be given to:

1. Significance (to Customs) and sensitivity (e.g., issues of interest to Congress or the media, or affecting admissibility)

2. Susceptibility (of making incorrect declarations)

3. The existence of any red flags

4. Management support (of strong internal controls)

5. Competent personnel (to adequately administer the controls)

Steps to Determine Risk Exposure

1. Evaluate problems identified in the profile, exam discrepancy and summary discrepancy rates, questionnaire, and concerns raised by the import specialist and account manager.

2. Perform macro risk analysis tests.

3. Analyze all results to determine the risk exposure level.

4. Continually reassess risk exposure as more information is gathered from evaluating internal control and performing other work in the PAS. Evaluation of risk exposure is not simply a one-time process that occurs at the start of the PAS process. .

Macro Risk Analysis Examples

Example A: Low Risk Exposure

Customs Automated Commercial System (ACS) data show that in all instances at entry the company made a North American Free Trade Agreement (NAFTA) claim with its 9802.00.80 claim. NAFTA verification was made of the exporter the previous year. As a result, if the components entered under 9802.00.80 were found to be ineligible, there would be no revenue effect because the finished good was entered under NAFTA. While being interviewed on its 9802.00.80 internal controls, the company agrees that there is no advantage to its claiming 9802.00.80 because as of July 1, 1999, there is no merchandise processing fee (MPF) for NAFTA claims. Because 9802.00.80 claims are made only on goods for which a NAFTA claim is made, the company agrees to cease making 9802.00.80 claims. Therefore, the macro risk analysis indicates a low risk exposure.

Example B: High Risk Exposure

The company provides the PAS team with a database of components that were entered under 9802.00.80 during the scope of the PAS. The database includes the part number, origin, manufacturer, quantity, and actual unit cost for each 9802.00.80 component. Using the database, the team calculates the total 9802.00.80 value declared to Customs according to company records and compares it against the 9802.00.80 value shown on the cost submissions. The claims made according to company records were $3 million less than the 9802.00.80 value shown on the cost submissions. Using the importer's average duty rate per Customs ACS data, the team determines that the $3 million in value would result in underpaid duties of $195,000. During the scope period, the importer had paid $1.5 million in duties. In addition, based on their experience with the company, the import specialist and account manager believed that 9802.00.80 claims would continue to be made. Therefore, the macro risk analyses indicate a high risk exposure.

System of Internal Controls

To evaluate the internal control system:

1. Consider the five components of internal control:

   - Control Environment
   - Risk Assessment
   - Control Activities
   - Information and Communication
   - Monitoring

2. Review relevant Customs and company documents to identify and understand relevant internal controls over 9802.00.80. (Examples of documents and information to review are listed above.)

3. Determine whether the company has established and follows procedures. Review:

   - Documentary evidence of the results of periodic internal control reviews/testing and corrective action implemented
   - Documentary evidence of communication with the broker and company departments on 9802.00.80 issues, including company testing of broker operations and verification that the broker followed company instructions
   - Documentary evidence that company-specific rulings are requested and followed
   - Documentary evidence of intercompany communications to ensure that correct information is provided to Customs
   - Training records and materials used to educate staff on Customs matters
   - Documentary evidence that the company ensures that the merchandise was exported from the United States without payment of drawback
   - Documentary evidence that the company ensures that the merchandise was not advanced in value or improved in condition while abroad

4. Review written policies and procedures and interview applicable company personnel to complete appropriate sections of the "Worksheet for Evaluating Internal Controls Over 9802.00.80."

   Note: The internal control assessment should include steps to:

- Identify and understand internal controls
- Determine what is already known about control effectiveness
- Assess the adequacy of internal control design
- Determine whether controls are implemented and effective
- Determine whether transaction processes are documented

Extensiveness of Audit Tests (Testing Limits)

The purpose of limited PAS testing is to take a survey in order to determine the necessity for and extent of substantive tests. In some circumstances the PAS team may decide that it probably will not be able to form an opinion based on limited PAS testing. In such cases, it may be necessary to proceed immediately to the ACT process. If the PAS team believes that it can form an opinion based on limited PAS testing, it should test the appropriate number of controls and associated transactions using the table below. Tests may be appropriate for various areas below the HTSUS 9802.00.80 level that compliance will be reported on. For example, the company may import from several foreign companies, but testing may be necessary only for certain companies or only for certain imports that have been identified as the primary risks.

Determine Extensiveness of Audit Tests

Risk Exposure	+	Preliminary Review Internal Control	=	Extensiveness of Audit Test	Testing Limit
High		Weak Adequate Strong		High Moderate to High Low to Moderate	10-20
Moderate		Weak Adequate Strong		Moderate to High Moderate Low	5-15
Low		Weak Adequate Strong		Low to Moderate Low Very Low	1-10

Source: Adapted from *Assessing Internal Controls in Performance Audits.*
Column titled "Testing Limit" reflects Customs test sizes.

Example: Validation of Company Control Activity

One of the company's internal controls over 9802.00.80 is that it reviews every 20th 9802.00.80 transaction to ensure that 9802.00.80 transactions are properly declared. The company maintains a "9802.00.80 Review Log" to document this review process. To determine internal control effectiveness, the PAS team may decide to verify that the company review procedure identifies incorrectly declared 9802.00.80 and that the company takes appropriate corrective action, including improved procedures to avoid future improperly declared 9802.00.80.

The PAS team may select a limited number of reviewed items from the "9802.00.80 Review Log" to verify that 9802.00.80 was properly reviewed to determine accurate declaration of 9802.00.80 and that any incorrectly declared 9802.00.80 entries were corrected and reported to Customs.

In addition, the PAS team should verify that the company took action to avoid future improperly declared 9802.00.80 after such errors were identified. In order to do this, the PAS team should verify that the same types of improperly declared items were correctly declared on subsequent entries. The following are examples of some of the tests that can be performed to determine whether 9802.00.80 are accurately declared.

Origin

- Compare the dates of manufacturers' affidavits to the dates of 9802.00.80 claims.
- Review purchase orders and bills of materials to identify dual sourcing of materials.
- Conduct third-party verifications to verify origin.

Usage

- Using inventory and accounting records identify the quantities of components purchased and shipped compared to the quantities claimed as 9802.00.80.
- Conduct a plant tour.

Value

- Compare the 9802.00.80 value on the cost submission to accounting records.

Evaluation of Pre-Assessment Survey Testing Results

The following steps are guidance for determining the effectiveness of the company's internal controls over 9802.00.80.

1. Complete the "Worksheet for Evaluating Internal Control Over 9802.00.80" to determine whether risk determination is acceptable or unacceptable and document why. Put the results of testing in perspective and evaluate confirmed weakness as a whole. The evaluation should consider the results of the internal control testing, problems identified in the profile, and/or concerns raised by the import specialist or account manager. The team must evaluate the PAS results based on the specific situation(s).

   Customs considers risk to be unacceptable when testing reveals that internal controls were not sufficient or effective in providing reasonable assurance that accurate, timely, and complete declarations are reported to Customs.

2. The following will help the PAS team determine whether conditions warrant proceeding to ACT:

   - **Do not proceed to ACT (Revenue) if:**
     - ✓ Cost-benefit analysis warrants no further effort (i.e., do not spend a significant amount of resources to identify a potential loss of revenue considered insignificant).
     - ✓ The PAS indicated that the revenue loss was due to an isolated incident.
     - ✓ The company agrees with the PAS finding(s) and agrees to quantify actual loss of revenue within an acceptable time frame.

   - **Do not proceed to ACT (Compliance) if:**
     - ✓ Error was isolated and the importer can show identical entry lines are correct.

- ✓ Errors were systemic, but the importer agrees to develop and implement a compliance improvement plan within an acceptable time frame.

- **Proceed to ACT (Revenue) if:**
  - ✓ The company does not have adequate internal control, and the PAS indicated material loss of revenue that cannot be quantified without statistical sampling or further review.
  - ✓ The importer will not quantify loss of revenue.

- **Proceed to ACT (Compliance) if:**
  - ✓ The importer refuses to take corrective action on systemic errors, and it is necessary to calculate a compliance rate.

Note: If substantive tests necessary to determine a compliance rate or revenue loss can be performed quickly and without extensive effort, the team should immediately perform the substantive tests without proceeding to ACT.

3. Determine whether referrals should be made for enforcement actions.

Examples

The following examples of situations that might be encountered under PAS are *for clarification purposes only.*

Example A: Situation in which the team would not proceed to ACT (Compliance)

Company's Policies and Procedures
The company's Customs Compliance Manual requires the buyer to identify U.S.-origin components used in the assembly of imported articles and obtain a declaration from the foreign company performing the assembly. This includes obtaining manufacturers' affidavits from suppliers prior to making the 9802.00.80 claim. The affidavits are compared to the bills of materials for imported articles to identify where a 9802.00.80 claim can be made. The buyer submits the declaration to the company's Customs Department and provides assistance to the Customs Department, if necessary, in preparing the Importer's Declaration. The Customs Department in turn is responsible for submitting these declarations to the Customs broker with instructions to include them with the entry. The buyer is also responsible for conferring with the foreign company to make sure that the invoice to be sent to the company sets forth the cost or value of the articles and the assembly. The Customs Compliance Manual further requires the Customs Department to maintain and have ready for submission the foreign customs entry, foreign customs invoice, and bill of lading/air waybill related to the export of the merchandise from the United States for assembly in case the U.S. Customs Service should request additional supporting documentation.

Monitoring Activities
The Customs Compliance Manual also includes procedures to verify compliance. First, the company's Customs Department conducts a cursory review of all entries filed by the Customs broker. If an error is identified, the company sends the broker a letter describing the type of error, with instructions to correct the error. In addition, the company reconciles quantities of exported articles to imported articles on a monthly basis to ensure that materials imported do not exceed quantities of materials originally exported.

Finally, the Manual establishes procedures for conducting internal audits on a semiannual basis. The Manual requires the import/export compliance manager to select 26 entries (one from each week in the 6-month period) for detailed review. If the review discloses any entry to be substantially noncompliant, the manager also checks entries made in the 15 days before and 15 days after the noncompliant entry was made. Within 2 weeks of completing the audit, the manager is required to prepare a report with findings and recommendations and submit it to the director of the Import/Export Department.

Pre-Assessment Survey
To determine whether the controls are working, the PAS team:

- Interviewed employees in the Purchasing Department to determine whether they are familiar with the procedures established in the Customs Compliance Manual
- Selected five entries from the Automated Commercial System (ACS) and:
  - ✓ Reviewed the manufacturers' affidavits and compares the part numbers against the bills of materials
  - ✓ Trace the 9802.00.80 value shown on the bills of materials to the 9802.00.80 claim made at entry
  - ✓ Identified part numbers on the bills of materials that were not covered by a manufacturer's affidavit
  - ✓ Determined whether the company had the assembler's and importer's declarations on file
  - ✓ Reviewed assembly orders to determine the type of work to be conducted by the foreign company
  - ✓ Determined whether the invoice identified the value of the foreign materials, assembly performed on the merchandise, and the cost or the value of the article
  - ✓ Compared the assembly orders to the commercial invoices
  - ✓ Determined whether the company maintained copies of the foreign customs entry, foreign customs invoice, and bill of lading or airway bill
- Reviewed the correspondence file to the Customs brokers
- Reviewed the most current compliance report prepared by the import/export compliance manager

Since the PAS team was able to verify that controls are in place and working effectively, proceeding to ACT was not considered necessary.

Example B: Situation in which the team would not proceed to ACT (Revenue)

The circumstances are the same as in example A above, except that the company failed to maintain the assemblers' declarations and manufacturers' affidavits and stopped conducting semiannual compliance reviews. However, the company agreed with the PAS findings and was able to quantify the actual loss of revenue caused by not being able to support 9802.00.80 eligibility. Therefore, proceeding to ACT was not considered necessary.

Example C: Situation in which the team would proceed to ACT (Compliance)

The circumstances are the same as in example B above, except that the company disagreed with taking proper corrective action. The company was noncompliant with a specific Customs Regulation, failed to monitor compliance with Customs requirements, and did not agree to take

corrective action. It was necessary to calculate a compliance rate. Thus, the audit team proceeded to ACT.

Example D: Situation in which the team would proceed to ACT (Revenue)

The circumstances are the same as in example B above, except that the company was not able to quantify the loss of revenue caused by not being able to support 9802.00.80 eligibility. Therefore, proceeding to ACT was considered necessary.

Worksheet for Evaluating Internal Control Over 9802.00.80

Objective: Determine whether the company has procedures designed to effectively control Customs risks related to 9802.00.80.

Risk Determination:

Acceptable _____
Unacceptable _____

Internal Control	Yes	No	Not Applicable	Internal Control Manual Page Number	Work Paper Reference	Comments
9802.00.80 General						
Are internal controls over 9802.00.80 formally documented?						
Are written policies and procedures approved by management?						
Are written policies and procedures reviewed and updated periodically?						
Is one manager ultimately responsible for control of the Import Department, including 9802.00.80?						
Does that manager have knowledge of Customs matters and the authority to ensure that internal control procedures for imports are established and followed by all company departments?						
Do written internal control procedures assign 9802.00.80 duties and tasks to a position rather than a person?						

Internal Control	Yes	No	Not Applicable	Internal Control Manual Page Number	Work Paper Reference	Comments
Does the company have good interdepartmental communication about 9802.00.80 matters? Is a reliable communication system in place to ensure that employees have access to current 9802.00.80 and other Customs information (e.g., rulings)?						
Does the company conduct and document periodic reviews of entries declared under 9802.00.80?						
Does the company use 9802.00.80 periodic review results to make 9802.00.80 corrections to past and present filed entries?						
Does the company use 9802.00.80 periodic reviews to make changes to its import operations as appropriate?						
Does the company provide adequate training for employees responsible for Customs matters?						
9802.00.80 Specific						
Documentation. Does the company's recordkeeping system include a retention program and identify documents needed to support 9802.00.80 claims?						
Documentation. Has the company established a reliable system or procedure						

Internal Control	Yes	No	Not Applicable	Internal Control Manual Page Number	Work Paper Reference	Comments
to produce any required entry documentation and supporting information?						
Origin. Does the company have procedures in place to verify U.S. origin (e.g., suppliers are required to provide manufacturers' affidavits, assemblers' declarations, or other documentation proving U.S.-origin parts)?						
Origin. Does the company have procedures for follow-up with suppliers to confirm the accuracy of such information? Is documentation maintained to support follow-up of information with suppliers?						
Origin. Do commercial invoices include country of origin, value, part number, and serial numbers?						
Origin. Are part numbers for U.S.-origin components maintained in a database that is provided to the company's brokers?						
Origin. Does the importer maintain manufacturers' affidavits or other documentation proving U.S. origin?						
Advanced or Improved. Does the importer maintain assemblers' declarations or other documentation attesting to the fact that the						

Internal Control	Yes	No	Not Applicable	Internal Control Manual Page Number	Work Paper Reference	Comments
merchandise was not advanced in value or improved in condition?						
Advanced or Improved. Are descriptions of the assembly process obtained prior to making 9802.00.80 claims on new or revised products?						
Usage. Does the importer have specific identifiers, such as serial numbers, to trace the merchandise through the inventory system?						
Usage. Are suppliers required to provide a bill of materials and a cost sheet that identify 9802 components and confirm usage of these U.S. components?						
Value. Is the cost submission filed in a timely manner, and does it include the actual cost of 9802.00.80 claims?						
Are the Design and Purchasing Departments required to notify the company's Customs Department formally of any design/supplier changes that affect imported products?						
Nonqualifying. Does the company have procedures in place to ensure that drawback was not previously claimed on articles entered under 9802.00.80?						

Internal Control	Yes	No	Not Applicable	Internal Control Manual Page Number	Work Paper Reference	Comments
Internal Control Conclusions						
Does the company provide adequate broker oversight to ensure proper 9802.00.80 declarations and data accuracy?						
Does PAS testing verify that control procedures were being performed?						
Do interviews with responsible persons support control procedures?						
Does the company have adequate internal control to address specific issues identified in the profile?						
List company-specific procedures and controls below (if applicable):						